

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

State of New York, *et al.*,

Plaintiffs,

v.

Donald J. Trump in his official capacity as
President of the United States, *et al.*,

Defendants.

Civil Action No. 25-cv-01144 (JAV)

**AMERICAN CENTER FOR LAW AND JUSTICE'S CONSENTED-TO MOTION FOR
LEAVE TO FILE AN AMICUS BRIEF IN SUPPORT OF THE DEFENDANTS**

Alexander Lonstein
LAW OFFICES OF ALEXANDER LONSTEIN
190 South Main Street
Ellenville, NY 12428
Phone: (845) 905-2216
Email: alex@alexlonsteinlaw.com

Jordan Sekulow*
Donn Parsons*
Stuart J. Roth*
Andrew J. Ekonomou*
Benjamin P. Sisney*
Nathan J. Moelker*
Liam R. Harrell*
AMERICAN CENTER FOR
LAW & JUSTICE
201 Maryland Ave., NE
Washington, DC 20002
Phone: (202) 641-9163
Fax: (202) 546-9309
Email: bsisney@aclj.org

Counsel for Amicus Curiae

*Not admitted in this jurisdiction.

The American Center for Law and Justice (“ACLJ”), by and through undersigned counsel, respectfully moves the Court pursuant to Fed. R. Civ. P. 7 for leave to file an *amicus curiae* brief in the above-captioned matter in opposition to the Plaintiffs’ Motion for a Preliminary Injunction. The ACLJ’s proposed *amicus* brief is attached to this motion. Both the plaintiffs and the defendants have consented to the filing of this amicus brief.

No specific rules govern *amicus* briefs in federal district courts. *See United States v. Gotti*, 755 F. Supp. 1157, 1158 (E.D. N.Y. 1991) (“This court is not aware of any rule or statute that prescribes the procedure for obtaining leave to file an amicus brief in the district court.”). Instead, federal district courts possess the inherent authority to accept *amicus curiae* briefs that will aid the Court. *In re Bayshore Ford Truck Sales, Inc.*, 471 F. 3d 1233, 1249 n. 34 (11th Cir. 2006) (“District courts possess the inherent authority to appoint ‘friends of the court’ to assist in their proceedings.”). A court has “discretion in deciding whether to allow a non-party to participate as an *amicus curiae*.” *Tafas v. Dudas*, 511 F. Supp. 2d 652, 659 (E.D. Va. 2007). The aid of *amici curiae* has “been allowed at the trial level where they provide helpful analysis of the law, they have a special interest in the subject matter of the suit, or existing counsel is in need of assistance.” *Id.* (quoting *Bryant v. Better Bus. Bureau of Greater Md., Inc.*, 923 F. Supp. 720, 728 (D. Md. 1996)).

The ACLJ’s Motion for Leave to File an *Amicus* Brief is timely. Mindful of how this matter is proceeding expeditiously, the ACLJ filed its brief promptly after this Court’s decision yesterday granting in part and denying in part the motion to clarify the Temporary Restraining Order. (ECF No. 28). This *Amicus* Brief was filed prior to this Court’s scheduled hearing regarding a preliminary injunction on February 14, 2025, and prior to the meet and confer this Court scheduled for the parties to occur by February 13, 2025. (ECF No. 29).

Amicus briefs are permitted in district court cases where the *amicus* possesses “a special interest in the subject matter of the suit.” *Bryan*, 923 F. Supp. At 728. Courts have emphasized that allowing parties to appear as *amicus curiae* “may be advisable where third parties can contribute to the court’s understanding” of the issues in a case. *Id.*; see *Harris v. Pernsley*, 820 F.2d 592, 603 (3d Cir. 1987).

Proposed *amicus* the ACLJ has “a special interest in the subject matter of the suit.” *Tafas*, 511 F. Supp. at 659. The ACLJ is an organization dedicated to the defense of constitutional liberties secured by law and legal principles like separation of powers. Counsel for the ACLJ have presented oral argument, represented parties, and submitted *amicus curiae* briefs before the Supreme Court of the United States and numerous state and federal courts in cases involving a variety of issues relating to the structure of government. ACLJ attorneys have appeared often before the Supreme Court as counsel for parties, e.g., *Colorado Republican State Central Committee v. Anderson*, U.S. No. 23-696 (2023); *Trump v. Vance*, 591 U.S. 786 (2020); *Trump v. Mazars USA, LLP*, 591 U.S. 848 (2020); *McConnell v. FEC*, 540 U.S. 93 (2003); or as amici, e.g., *Trump v. United States*, 603 U.S. 593 (2024); *Fischer v. United States*, 144 S. Ct. 2176 (2024); *McDonnell v. United States*, 579 U.S. 550 (2016); and *Bush v. Gore*, 531 U.S. 98 (2000). The ACLJ has a fundamental interest in maintaining the integrity of the founders’ constitutional design, and here, supporting the separation of powers and the authority of the President to administer the executive branch and execute the laws of the United States. “The principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787.” *Buckley v. Valeo*, 424 U.S. 1, 124 (1976).

For the foregoing reasons, *amicus* respectfully asks this Court to grant leave to file an *amicus curiae* brief in opposition to the Plaintiffs' Motion for a Preliminary Injunction.

February 12, 2025

Respectfully Submitted,

Alexander Lonstein
LAW OFFICES OF ALEXANDER LONSTEIN
190 South Main Street
Ellenville, NY 12428
Phone: (845) 905-2216
Email: alex@alexlonsteinlaw.com

Jordan Sekulow*
Donn Parsons*
Stuart J. Roth*
Andrew J. Ekonomou*
Benjamin P. Sisney*
Nathan J. Moelker*
Liam R. Harrell*
AMERICAN CENTER FOR
LAW & JUSTICE
201 Maryland Ave., NE
Washington, DC 20002
Phone: (202) 641-9163
Fax: (202) 546-9309
Email: bsisney@aclj.org

Counsel for Amicus Curiae

*Not admitted in this jurisdiction.

CERTIFICATE OF CONFERRAL

I hereby certify that Counsel for the Amicus has conferred with the parties about the relief sought in this motion. The Defendants have indicated that they consent to this motion. The Plaintiffs have indicated that they consent to this motion.

Dated: February 12, 2025

/s/ Benjamin P. Sisney
Benjamin P. Sisney
for Amicus Curiae

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2025, I electronically filed a copy of the foregoing Motion for Leave to File an *Amicus Curiae* Brief using the ECF System which will send notification of that filing to all counsel of record in this litigation.

Dated: February 12, 2025

/s/ Alexander Lonstein
Alexander Lonstein
Counsel for Amicus Curiae